



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: August 19, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007456

[REDACTED]

Dear [REDACTED]

On August 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 2, 2016 eligibility determination notice and February 2, 2016 enrollment confirmation notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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NY State of Health Account ID: [REDACTED]
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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your enrollment in an Essential Plan was effective March 1, 2016?

Procedural History

On August 30, 2015, NYSOH issued a notice of enrollment confirming your selection and enrollment in a qualified health plan (QHP) at a premium rate of \$449.40 per month, after applying \$213.00 in advance payments of the premium tax credit (APTC), effective January 1, 2015.

On October 24, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost through NYSOH, as you were found ineligible for Medicaid, Child Health Plus, APTC or cost-sharing reductions to help pay for the cost of insurance. This was because you had not responded to the renewal notice and had not completed your renewal within the

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required time frame. Your eligibility for financial assistance ended December 31, 2015.

On December 22, 2015, NYSOH issued a notice of enrollment confirming that you had been reenrolled in your QHP for 2016 on December 21, 2015, with a monthly premium responsibility of \$714.91, effective January 1, 2016.

On February 1, 2016, NYSOH received a revised application for health insurance.

On February 2, 2016, NYSOH issued an eligibility determination notice based on the information contained in the February 1, 2016 application. It stated that you were found eligible to enroll in the Essential Plan with no monthly premium. This eligibility determination was effective March 1, 2016.

Also on February 2, 2016, NYSOH issued a disenrollment notice confirming that your QHP coverage would end effective February 29, 2016.

Finally on February 2, 2016, NYSOH issued a notice of enrollment confirming that you enrolled an Essential Plan as of February 1, 2016. The notice stated that your Essential Plan coverage would begin effective March 1, 2016.

On February 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan insofar as it did not begin January 1, 2016.

On August 1, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record support the following findings of fact:

- 1) You testified, and the record reflects, that you receive your notices from NYSOH electronically, and not be regular mail.
- 2) You testified that you did not receive any electronic alerts regarding any renewal notice in your NYSOH account, telling you that you needed to update your application in order to renew your eligibility.
- 3) You testified that you did not know that you needed to update your account until you received a bill from your QHP insurance carrier that reflected a premium of \$714.91, without the application of any APTC, for your January 2016 coverage.

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- 4) You testified that you paid an initial bill that you received from the insurance carrier in the amount of \$501.91 for coverage during 2016, but that amount was refunded to you.
- 5) You submitted an application to NYSOH for financial assistance on February 1, 2016.
- 6) You testified, and the record reflects, that you enrolled in an Essential Plan on February 1, 2016.
- 7) You testified that you wanted your enrollment in an Essential Plan to begin on January 1, 2016, rather than March 1, 2016, because you incurred approximately \$500.00 in out-of-pocket costs during the months of January and February 2016.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective March 1, 2016.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 24, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you qualify for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2015 or the financial help you were receiving might end.

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Because there was no timely response to this notice, your eligibility for financial assistance was terminated effective December 31, 2015.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the renewal notice, which directed you to update the information in your NYSOH account. There is no evidence in your account documenting that any email alert was sent to you regarding the renewal notice or the need to renew your application, nor is there any evidence that a notice was sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account.

You first renewed your eligibility for financial assistance through NYSOH for 2016 on February 1, 2016, and therefore we must infer that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

Since we must infer that you would have selected the Essential Plan for enrollment on December 15, 2015, your enrollment properly took effect on the first day of the first month following December 15, 2015; that is, on January 1, 2016.

Therefore, the February 2, 2016 eligibility determination and enrollment confirmation notices are MODIFIED to state that your Essential Plan coverage begins effective January 1, 2016.

Furthermore, the February 2, 2016 disenrollment notice is MODIFIED to state that your QHP coverage ended effective January 1, 2016.

Decision

The February 2, 2016 eligibility determination and enrollment notices are MODIFIED to state that your Essential Plan coverage begins effective January 1, 2016.

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The February 2, 2016 disenrollment notice is MODIFIED to state that your QHP coverage ended effective December 31, 2015.

Effective Date of this Decision: August 19, 2016

How this Decision Affects Your Eligibility

The effective date of your Essential Plan is January 1, 2016.

Your QHP coverage ended as of December 31, 2015.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The February 2, 2016 eligibility determination and enrollment notices are MODIFIED to state that your Essential Plan coverage begins effective January 1, 2016.

The February 2, 2016 disenrollment notice is MODIFIED to state that your QHP coverage ended effective December 31, 2015.

The effective date of your Essential Plan is January 1, 2016.

Your QHP coverage ended as of December 31, 2015.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

